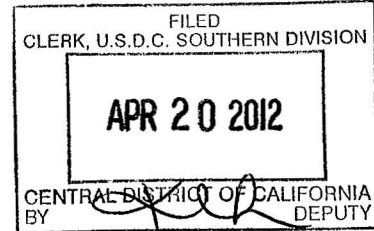


I HEREBY CERTIFY THAT THIS DOCUMENT WAS SERVED BY
FIRST CLASS MAIL, POSTAGE PREPAID, TO ALL COUNSEL
(OR PARTIES) AT THEIR RESPECTIVE MOST RECENT ADDRESS OF
RECORD IN THIS ACTION ON THIS DATE.

DATED: 4.20.12
[Signature]
DEPUTY CLERK



UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

<p>CRUZ A. IBARRA,</p> <p style="text-align: right;">Petitioner,</p> <p style="text-align: center;">vs.</p> <p>L.S. McEWEN, Warden,</p> <p style="text-align: right;">Respondent.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Case No. EDCV 11-1452-GAF (RNB)</p> <p>ORDER ACCEPTING FINDINGS AND RECOMMENDATIONS OF UNITED STATES MAGISTRATE JUDGE</p>
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Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition, and all the other records and files herein, including: petitioner's Motion to Amend filed on December 1, 2011; the Magistrate Judge's December 5, 2011 Minute Order denying petitioner's Motion to Amend without prejudice to its renewal if and when the District Judge declined to accept the Magistrate Judge's findings and recommendation with respect to the Motion to Dismiss; the Magistrate Judge's original Report and Recommendation filed on December 7, 2011; petitioner's objection filed on December 21, 2011 to the denial of his Motion to Amend; petitioner's objections filed on January 25, 2012 to the original Report and Recommendation; petitioner's "Motion for the Court to Hold and Order that Further Proceedings Be Held to Factually and Fully Determine the Merits of the Claims in the Petition for Writ of Habeas Corpus to the Ends of Justice as Petitioner is Actually

1 Innocent” filed on February 14, 2012; petitioner’s “Objections to the Magistrate’s
2 January 25, 2012 Order; and Motion for the Court to Order Further Proceedings to
3 Fully and Factually Determine the Merits of the Petition for Habeas Corpus’s IAC
4 Issues” filed on February 14, 2012; the Magistrate Judge’s Supplemental Report and
5 Recommendation filed on February 15, 2012; petitioner’s “Opposition to
6 Respondent’s Responce [sic] to the ‘Actual Innocence’ Claim Contained in the
7 Objection to the Report and Recommendation” filed on February 27, 2012; and
8 petitioner’s “Objections and Supplemental Objections to the Magistrate’s Report and
9 Recommendation” filed on March 15, 2012.

10 Based on the fact that petitioner’s Motion to Amend did not seek to add any
11 new grounds for relief or any new arguments in support of the previously-alleged
12 grounds for relief, and the fact that the only difference between the original Petition
13 and the proposed First Amended Petition was that petitioner had added a section in
14 which petitioner asserted that he was entitled to equitable tolling of the limitation
15 period, which was essentially duplicative of the equitable tolling argument made in
16 petitioner’s opposition to the Motion to Dismiss, the Court finds that the Magistrate
17 Judge’s denial of the Motion to Amend without prejudice to its renewal if and when
18 this Court declined to accept the Magistrate Judge’s findings and recommendation
19 with respect to the Motion to Dismiss was not clearly erroneous or contrary to law.

20 Moreover, having made a de novo determination of those portions of the
21 original Report and Recommendation and the Supplemental Report and
22 Recommendation to which objections have been made, the Court concurs with and
23 accepts the findings and recommendations of the Magistrate Judge.

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1 IT THEREFORE IS ORDERED (1) that respondent's Motion to Dismiss is
2 granted; (2) that all pending motions are denied as moot; and (3) that Judgment be
3 entered denying the Petition and dismissing this action with prejudice.

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5 DATED: 4/18/12

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8 GARY A. FEESS
9 UNITED STATES DISTRICT JUDGE
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